

FCC Received March 31, 1993 - 2:45 p.m.

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TRANSCRIPT OF PROCEEDINGS

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

APR 5 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN RE APPLICATIONS OF:

MM DOCKET NO. 92-316

RIVERTOWN COMMUNICATIONS CO., INC.,

SAMPLE BROADCASTING CO., L.P.,

For Construction Permit for a
New FM Station on Channel 282C3

Eldon, Iowa

DATE OF HEARING: March 22, 1993

VOLUME: 1

PLACE OF HEARING: Washington, D.C.

PAGES: 1-7

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Court Reporting Depositions
D.C. Area (301) 261-1902
Balt. & Annap. (410) 974-0947

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In re Applications of:

RIVERTOWN COMMUNICATIONS CO., INC.,

SAMPLE BROADCASTING COMPANY, L.P.,

MM Docket No. 92-316

For Construction Permit for a
FM Station on Channel 282C3

Eldon, Iowa

The above-entitled matter came on for pre-hearing conference pursuant to notice before John M. Frysiak, Administrative Law Judge, at 2000 L Street, N.W., Washington, D.C., in Courtroom No. 4, on Monday, March 22, 1993, at 9:00 a.m.

APPEARANCES:

On behalf of the Rivertown Communications Company, Inc.:

DONALD E. WARD, Esquire
1200 Pennsylvania Avenue, N.W.
Fourth Floor
Washington, D.C. 20004

On behalf of Sample Broadcasting Co., L.P.:

JOHN S. NEELY, Esquire
Miller and Miller, P.C.
1990 M Street, N.W., Suite 760
Washington, D.C. 20036-3404

On behalf of Mass Media Bureau:

NORMAN GOLDSTEIN, Esquire
2025 M. Street, N.W.
Washington, D.C. 20554

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P R O C E E D I N G S

(9:00 a.m.)

1 JUDGE FRYSIK: This is a prehearing conference for
2 Eldon, Iowa. May we note your appearances for the record?

3 MR. WARD: Rivertown Communications, Donald E. Ward.

4 MR. NEELY: Sample Broadcasting Company, L.P., John S.
5 Neely with Miller and Miller, P.C.

6 JUDGE FRYSIK: Thank you. Well, we don't have much to
7 discuss. I guess one of the things we alerted you to discuss
8 at this prehearing conference is the possibility of
9 settlement. Is there any?

10 MR. NEELY: There have been numerous discussions
11 between the parties, Your Honor, both during the applications
12 -- when the application was post -- pre-designation and post-
13 designation. It appears at this point that the parties are
14 still far apart on settlement possibilities.

15 JUDGE FRYSIK: All right. Any problems with the
16 discovery?

17 MR. WARD: Just -- none, none that are -- aren't
18 weather-related. We were scheduled to take depositions early
19 -- was it last week? I guess it was --

20 MR. NEELY: Twenty-fifth and sixth?

21 MR. WARD: Yeah. Monday and Tuesday out in Decatur,
22 and neither Mr. Neely or I were able to depart, or at least we
23 reasonably concluded on Sunday, Sunday morning that we were
24 not reasonably able to depart. So we rescheduled that.
25

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1 JUDGE FRYSIAK: Well, I gave him a problem with, with
2 the other date that you might have to make.

3 MR. WARD: I -- at this point I don't think so. We
4 have tentatively rescheduled for April 1 and 2 out there and
5 I, I don't know whether you define the completion of discovery
6 as the delivery of deposition transcripts or merely the taking
7 of depositions, but it's the latter that I think will be well-
8 completed by April 23.

9 JUDGE FRYSIAK: The taking of the depositions is the
10 final step. I, I developed a conflict with the hearing date.
11 I'm going to have to either bring it up forward or postpone
12 it. I guess for your purposes it would be best if I would
13 postpone the hearing date. I'm looking at a two-week
14 postponement.

15 MR. NEELY: You're talking about the --

16 JUDGE FRYSIAK: June the 8th.

17 MR. NEELY: -- admissions hearing session or the
18 hearing session?

19 JUDGE FRYSIAK: No, the hearing session of June the
20 8th. If we, we have one, I won't be here on June, June 8th.
21 I was thinking of two weeks postponement if that meets with
22 your approval. I can bring it up a week, but that would press
23 you.

24 MR. NEELY: There are pending before you some motions
25 to enlarge issues.

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1 JUDGE FRYSIAK: All right.

2 MR. NEELY: In the event you grant those motions, there
3 will probably be additional discovery, which may require more
4 than a week or two postponement of the hearing date.
5 Presumably you'd like to have one hearing session rather
6 than multiple hearing sessions.

7 JUDGE FRYSIAK: All right. All right. Then why don't
8 we just go ahead and postpone it for two weeks and if you need
9 any help in the interim with the other filing dates why you
10 just let me know and we'll change those as well. Mr.
11 Golstein, good morning, as he walked in.

12 MR. GOLDSTEIN: Good morning, Your Honor.

13 MR. NEELY: Two weeks would make it June 22nd?

14 JUDGE FRYSIAK: All right. June the 22nd. I just
15 wanted to reserve that date in case you get too close to it --
16 we take it up. Is that all right with you, Don, on the 22nd
17 of June?

18 MR. WARD: Fine.

19 MR. NEELY: Fine with me.

20 JUDGE FRYSIAK: All right. So that will be the only
21 change I'll make in the procedural schedule unless you ask for
22 some other changes.

23 MR. NEELY: Will you issue a written order confirming
24 that?

25 JUDGE FRYSIAK: Yeah, I will. Mr. Goldstein, I've

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1 changed my hearing date, Commission hearing date, from June
2 8th to June 22nd simply because I developed a conflict with
3 the 8th of June.

4 MR. GOLDSTEIN: I just wondered if there's any -- I'm
5 sorry I'm late, Your Honor. Our clocks -- I'm sure we filed a
6 notice of appearance, Leonard Goldstein on behalf of the chief
7 of the Mass Media. I just wondered what the possibility is of

8 settlement if any -- I'm sure we filed a notice of appearance

1 prehearing conference, I believe was February 9th, which I
2 received through the good office of your secretary.

3 JUDGE FRYSIK: I'll look into it.

4 MR. WARD: My, my impression is that -- I note mail is
5 broken down in the Ben Franklin Station where my P.O. box is.
6 For that reason, I'm abandoning that. In fact, the notice of
7 appearance I filed in this case shows my street address,
8 rather than the P.O. box and I hope that that will be used for
9 all circumstances in the future. I also have --

10 JUDGE FRYSIK: Could I have your --

11 MR. WARD: I also have the perception that the
12 Commission's mailroom is, is something less than expedient in
13 getting orders out or getting address changes into their data
14 base.

15 JUDGE FRYSIK: I don't know what it takes, but I'll
16 look at it.

17 MR. WARD: It probably takes more than any of us can
18 muster.

19 JUDGE FRYSIK: All right. I'll, I'll have my legal
20 clerk look into this.

21 MR. WARD: I, I -- am I correct that there have been no
22 further orders released by you, at least, since February 9?

23 JUDGE FRYSIK: The last one issued was released on the
24 16th of February and it was simply accepting the amendment.

25 MR. WARD: Yes, I did receive that.

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1 JUDGE FRYSIAK: By Sample Broadcast.

2 MR. WARD: I did receive that.

3 JUDGE FRYSIAK: All right. Is there anything else? If
4 not, we'll stand adjourned then until the 22nd of June. I
5 thank you very much.

6 MR. NEELY: If we postpone the hearing session, are we
7 also postponing the admission session?

8 JUDGE FRYSIAK: Well, I asked you whether you wanted to
9 do that.

10 MR. NEELY: I'm sorry. I mis-- I thought we were just
11 postponing the hearing session. It doesn't, doesn't matter to
12 me. I just wondered if that was also in your plan.

13 JUDGE FRYSIAK: I was going to halt everything else

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APPLICATIONS ON FM STATION IN ELDON, IOWA

Name

MM DOCKET NO. 92-316

Docket No.

WASHINGTON, D.C.

Place


MARCH 22, 1993

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 7, inclusive, are the true, accurate and complete transcript prepared from the reporting by BARBARA LORD in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the final proofed typewritten transcript against the reporting or recording accomplished at the proceeding.

MARCH 31, 1993

Date



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Free State Reporting, Inc.

March 31, 1993


Date



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Free State Reporting, Inc.

March 31, 1993

Date



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